

Medicaid eligibility is important because Medicaid is a program that covers typical health care expenses for individuals and families with limited incomes, including adults and children with disabilities. In addition, Medicaid covers many disability-specific services and supports not covered by private pay insurance, including things like personal assistance and developmental disability services. The fear of losing Medicaid coverage is one of the primary reasons many adults with disabilities are afraid or reluctant to gain employment.

The 2009 Montana Legislature passed SB 119, creating the Medicaid for Workers with Disabilities program, a Medicaid eligibility category specifically tailored for workers with disabilities. The purpose of the program is to support employment for individuals with disabilities by providing the opportunity to begin or continue to receive Medicaid benefits during their employment by buying in to Medicaid. Individuals must be both disabled and working to qualify for this Medicaid eligibility category. People participating in the program have paid no less than \$1.8 million in cost share fees.

HB 337 does two things.

First, the bill would raise the resource limited for individuals and couples who are participating in the Medicaid for Workers with Disabilities program from \$8000 for an individual and \$12,000 for a couple to \$15,000 for individual and \$30,000 for a couple. The Medicaid for Workers with Disabilities has been in existence since 2010 and has been an extremely successful program for getting people with disabilities back into the workforce and creating additional taxpayers. Even though the resource limits for the MWD program are higher than those for traditional Medicaid eligibility groups, Montana's resource limit under the MWD program is much lower than numerous states have for their Medicaid by programs. Further, people with disabilities often face increased costs that non-disabled individuals do not. For example, an individual who uses a wheelchair cannot simply go out and purchase any type of vehicle that they want; they must purchase a type of vehicle that can be made accessible and then pay to have that vehicle made accessible. Medicaid or Medicare also does not pay for all wheelchair components or other items that people may need due to their disabilities and the \$8000 resource limited is sometimes not enough to cover those costs. People with disabilities also must pay for other items here and there to accommodate their disabilities in making their day-to-day tasks achievable, whereas, non-disabled individuals do not. Increasing the resource limit for the MWD program would allow individuals with disabilities who are working and in need of Medicaid to better able to save for and pay out-of-pocket for the items they need and be less dependent on government services to help them pay for those items. It would also allow individuals to better save for emergency situations.

Second, the bill would make individual retirement accounts that are accumulated by individuals while participating in Medicaid for Workers with Disabilities excludable resources in other Medicaid eligibility categories should an individual who is participating in the Medicaid for Workers with Disabilities program have to move off of that program and into a different Medicaid eligibility group. Currently, individual retirement accounts are not counted as resources for a person participating in the Medicaid for Workers with Disabilities program. However, if an individual who is participating in the Medicaid for Workers with Disabilities program find they can no longer work and need to move into a different Medicaid eligibility category or if a person retires and has the need for Medicaid under a different eligibility category, those individual retirement accounts are no longer excluded as resources and would have to be liquidated before one could become Medicaid eligible. Because individual retirement accounts are not considered excludable resources when someone leaves the Medicaid for Workers with Disabilities program, it serves as a disincentive for individuals to save money for retirement knowing that they will just have to give that

money to the state when they retire or when they stop working, even if temporarily, and are no longer eligible for the MWD program.

Technical note 1 states:

“Currently, retirement accounts are excluded as a resource in Medicaid Worker Disabilities (MWD), but are counted for the Aged, Blind and Disabled (ABD) coverage group. HB 337 provides that the Department could not count individual retirement accounts as a resource, if a person who is no longer eligible for MWD applies for Medicaid under a different coverage group, and the individual retirement account was established while the individual was receiving benefits through MWD. Excluding such funds for individuals coming from MWD would result in disparate treatment of similarly situated classes of individuals. Retirement funds would be counted for disabled individuals, who were never enrolled in MWD, but would not be counted for disabled individuals, who previously were enrolled in MWD. This could raise an equal protection issue.”

The goal of this program is to promote, encourage, and foster the employment and increased employment of people with disabilities so that they may eventually earn enough to become more financially independent and to not have to depend solely on the Medicaid system and other public benefit assistance programs in order to make a living. This program should not be built on the premise that ensures people's hands continue to be tied to the system by assuming that people with disabilities are just going to stop working and when they do, that it denies them the opportunity to have available to them adequate resources that can help to meet their needs until they either find another job or exhaust those resources and once again become eligible for Medicaid under a different eligibility category. If programs are always set up to limit an individual's ability to succeed, limited success rates are what you will always get.

We believe that the ability to have the opportunity to accumulate resources at a higher level than people with disabilities who are not working and to exclude retirement accounts saved while individuals were working under the MWD from being counted as resources under other eligibility categories is not unfair. What we feel is unfair is to make individuals immediately liquidate their retirement accounts that they spent years saving under this eligibility category that allows such accounts when they “retire” or can no longer work simply because they have no choice but to need Medicaid services under another eligibility category when they stop working. Many people with disabilities do not have the luxury of being able to shop around for health insurance that will meet their everyday needs because there are none. Allowing individuals who saved in a retirement account while in the MWD eligibility category to have that resource also excluded under other eligibility categories would help to offset some expenses to the Medicaid system as well as other benefit programs as well because they would have that resource available to them to pay more of their own way.

Allowing individuals who are working, and paying taxes, to accumulate resources at a higher level and to exclude retirement accounts saved while individuals were working under the MWD from being counted as resources under other eligibility categories gives those who are not working an incentive to seek employment and attempt to improve their own lives. While we know everyone with a disability may not be able to work at substantial levels and therefore, may not ever be able to earn enough to work their way off of the system entirely, that option should be available for all and should not be taken away simply because some may not be able to attain that level of employment.

The MWD program should not be structured in a manner that, while enabling individuals to somewhat improve their situation, is based on the rationale of comparing workers to non workers just because they may need some of the same services by impeding a workers ability to try to do the right thing by saving for

their future. It should instead be structured in a forward looking manner which, as stated previously, promotes, encourages, and fosters the employment and self-sufficiency of people with disabilities so that they may have the opportunity to live, work, and participate in all facets of life that people without disabilities all too often take for granted and many people with disabilities never get to experience.

If programs are always set up to limit an individual's ability to succeed, limited success rates are what you will always get and people will continue to solely depend on government services.

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Table 4
Work-Related Policies and Protections

	Work Requirements	Protections for Temporary Loss of Employment	Protections When Returning to Other Eligibility Categories
Connecticut	Must make FICA contributions	Can continue Buy-In for one year after losing employment	Assets in retirement, Medical Savings Accounts, and approved accounts not counted during the individual's lifetime
New Hampshire	Be working (proven with a pay stub or 1099 Estimated Tax statement if the individual is self-employed)	Yes. If a Buy-In recipient loses his or her job, there is a 12 month period during which time he or she will remain on Buy-In as long as the person: Intends to go back to work within the next 12 months, and Lost his or her job due to good cause	Yes. Earned Income Accounts-Resources from earnings that a person puts into a special account will not be counted toward any future Medicaid eligibility for the person's lifetime
Minnesota	Some income from work every 30 days. Effective Jan. 1, 2004, must document earned income tax withholding and FICA tax withheld And, there will be a \$65 earned income disregard if an individual has at least \$65 of earnings a month.	Previously, up to 2 months of medical leave and allowances for switching jobs. After 12/1/01, up to 4 months of leave due to medical condition. Effective Jan. 1 2004, in addition, if loss of employment not attributable to enrollee, may continue for 4 months but must pay premiums in such cases.	As of 12/1/01, up to \$20,000 in assets protected for one year

Table 2
Medicaid Buy-In Program
Resources Limits and Exclusions

	What is the Resource Limit?	Are Retirement Accounts Excluded from Countable Assets?	Are Medical Savings Accounts Excluded from Countable Assets?	Are Approved Accounts for Employment or Independence Excluded?
Connecticut	\$10,000 Individual \$15,000 Couple	Yes	Yes	Yes
Iowa	\$12,000 Individual \$13,000 Couple	Yes	Yes	Yes, Assistive Technology Accounts.
Minnesota	\$20,000 (Only count individual assets)	Yes	Yes	No
New Hampshire	\$20,889 Individual \$31,334 couple	No	No	Yes
New Jersey	\$20,000 individual \$30,000 couple	Yes	No	No
Wisconsin	\$15,000 (Only count individual assets)	Yes. Retirement accounts initiated after Buy-In enrollment are not counted. Retirement accounts existing prior to Buy-In enrollment are counted.	No	Yes, Independence Accounts